

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

William Creech,)
Plaintiff,) C/A No. 3:11-1742-MBS
vs.)
Washington Savannah River Company,)
Defendant.)

)

O R D E R

Plaintiff William Creech filed this action in the Court of Common Pleas for Richland County, South Carolina on June 17, 2011, alleging that his employer, Defendant Washington Savannah River Company, discriminated against him on the basis of his age, in violation of the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 et seq. (ADEA). Defendant removed the case to this court on July 19, 2011. Plaintiff filed an amended complaint on August 31, 2011.

In accordance with 28 U.S.C. § 636(b) and Local Rule 73.02, D.S.C., this matter was referred to United States Magistrate Judge Joseph R. McCrorey, and later reassigned to Magistrate Judge Shiva V. Hodges, for a Report and Recommendation. On February 27, 2012, Defendant filed a motion to dismiss for failure to prosecute. Defendant states that counsel for Plaintiff affirmed Plaintiff's intent not to continue to pursue the case. Plaintiff filed no response in opposition to Defendant's motion to dismiss.

On March 15, 2012, the Magistrate Judge issued a Report and Recommendation in which she recommended that the within action be dismissed pursuant to Fed. R. Civ. P. 41(b) for failure to prosecute. Plaintiff filed no objection to the Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility for making a final determination remains with this court. Mathews v. Weber, 423 U.S. 261, 270 (1976). This court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1). This court may also receive further evidence or recommit the matter to the Magistrate Judge with instructions. *Id.* This court is obligated to conduct a de novo review of every portion of the Magistrate Judge's report to which objections have been filed. *Id.* In the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." Diamond v. Colonial Life & Acc. Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

The court has thoroughly reviewed the record. The Report and Recommendation is adopted and incorporated herein by reference. Defendant's motion to dismiss (ECF No. 31) is **granted**. Plaintiff's complaint is dismissed with prejudice pursuant to Rule 41(b) for failure to prosecute.

IT IS SO ORDERED.

/s/ Margaret B. Seymour
Chief United States District Judge

Columbia, South Carolina

April 4, 2012